

AMENDED IN ASSEMBLY AUGUST 4, 2016
AMENDED IN ASSEMBLY AUGUST 31, 2015
AMENDED IN ASSEMBLY JULY 8, 2015
AMENDED IN ASSEMBLY JULY 1, 2015
AMENDED IN SENATE JUNE 2, 2015
AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 22, 2015
AMENDED IN SENATE MARCH 23, 2015

SENATE BILL

No. 253

Introduced by Senator Monning
(Principal coauthor: Assembly Member Chiu)
(Coauthors: Senators Beall and Leno)
(Coauthor: Assembly Member Gatto)

February 18, 2015

An act to amend Section 4064.5 of the Business and Professions Code, and to amend, repeal, and add Sections 369.5 and 739.5 of, and to add Section 369.4 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as amended, Monning. Juveniles: psychotropic medication. Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents or wards of the court under certain circumstances. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of

psychotropic medications for a dependent or delinquent child who has been removed from the physical custody of his or her parent. Existing law requires that court authorization for the administration of psychotropic medication to a child be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. *Existing law requires the Judicial Council to adopt rules of court and develop appropriate forms for the implementation of these provisions, as specified.*

This bill, commencing ~~July 1, 2016,~~ *January 1, 2018*, would require that an order authorizing the administration of psychotropic medications to a dependent child or a delinquent child in foster care be granted only upon the court's determination that the administration of the medication is in the best interest of the child and that specified requirements have been met, including a requirement that the prescribing physician confirms that ~~he or she has conducted a comprehensive evaluation of all appropriate laboratory screenings or tests have been performed or ordered for the child, as specified.~~ *Under specified circumstances,* the bill would prohibit the court from authorizing the administration of psychotropic medications to a child under ~~other specified circumstances;~~ *those provisions,* unless a ~~2nd medical opinion~~ *preauthorization review* is obtained from an appropriately qualified health care professional. ~~The bill would prohibit the court from authorizing the administration of a psychotropic medication unless the court is provided documentation that appropriate laboratory screenings and tests for the child have been completed no more than 45 days prior to submission of the request to the court.~~ *a child psychiatrist or behavioral pediatrician, as specified.* The bill would impose additional requirements on the court to implement these provisions and to conduct review hearings, as specified. The bill would require the child's social worker to submit a report to the court prior to ~~the any~~ review hearing, to include information from the child, the child's caregiver, the public health nurse, and ~~the court-appointed~~ *court-appointed* special advocate. By increasing the duties of county social workers, ~~this~~ *the* bill would ~~create~~ *impose* a state-mandated local program. The bill would authorize psychotropic medication to be administered in an emergency without court authorization. The bill would require court authorization to be sought as soon as ~~practical,~~ *practical thereafter,* but in no case more than 2 court days after emergency administration of the psychotropic medication. The bill

would require the Judicial Council to adopt rules *of court and develop appropriate forms* to implement these ~~provisions; provisions by January 1, 2018.~~

This bill would *also* require the State Department of Health Care Services, in collaboration with the Judicial Council, to identify resources to assist courts in securing ~~2nd opinions~~ *preauthorization reviews* in those counties in which there are fewer than 10 practicing child and adolescent psychiatrists in order to avoid undue delays in the authorization of psychotropic medications.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

This bill would incorporate changes to Section 4064.5 of the Business and Professions Code proposed by both this bill and SB 999, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4064.5 of the Business and Professions
- 2 Code is amended to read:
- 3 4064.5. (a) A pharmacist may dispense not more than a 90-day
- 4 supply of a dangerous drug other than a controlled substance
- 5 pursuant to a valid prescription that specifies an initial quantity of
- 6 less than a 90-day supply followed by periodic refills of that
- 7 amount if all of the following requirements are satisfied:
- 8 (1) The patient has completed an initial 30-day supply of the
- 9 dangerous drug.

1 (2) The total quantity of dosage units dispensed does not exceed
2 the total quantity of dosage units authorized by the prescriber on
3 the prescription, including refills.

4 (3) The prescriber has not specified on the prescription that
5 dispensing the prescription in an initial amount followed by
6 periodic refills is medically necessary.

7 (4) The pharmacist is exercising his or her professional
8 judgment.

9 (b) For purposes of this section, if the prescription continues
10 the same medication as previously dispensed in a 90-day supply,
11 the initial 30-day supply under paragraph (1) of subdivision (a) is
12 not required.

13 (c) A pharmacist dispensing an increased supply of a dangerous
14 drug pursuant to this section shall notify the prescriber of the
15 increase in the quantity of dosage units dispensed.

16 (d) In no case shall a pharmacist dispense a greater supply of a
17 dangerous drug pursuant to this section if the prescriber personally
18 indicates, either orally or in his or her own handwriting, "No
19 change to quantity," or words of similar meaning. Nothing in this
20 subdivision shall prohibit a prescriber from checking a box on a
21 prescription marked "No change to quantity," provided that the
22 prescriber personally initials the box or checkmark. To indicate
23 that an increased supply shall not be dispensed pursuant to this
24 section for an electronic data transmission prescription as defined
25 in subdivision (c) of Section 4040, a prescriber may indicate "No
26 change to quantity," or words of similar meaning, in the
27 prescription as transmitted by electronic data, or may check a box
28 marked on the prescription "No change to quantity." In either
29 instance, it shall not be required that the prohibition on an increased
30 supply be manually initialed by the prescriber.

31 (e) This section does not apply to psychotropic medication or
32 psychotropic drugs as described in Sections 369.5 and 739.5 of
33 the Welfare and Institutions Code.

34 (f) Nothing in this section shall be construed to require a health
35 care service plan, health insurer, workers' compensation insurance
36 plan, pharmacy benefits manager, or any other person or entity,
37 including, but not limited to, a state program or state employer, to
38 provide coverage for a dangerous drug in a manner inconsistent
39 with a beneficiary's plan benefit.

1 *SEC. 1.5. Section 4064.5 of the Business and Professions Code*
2 *is amended to read:*

3 4064.5. (a) A pharmacist may dispense not more than a 90-day
4 supply of a dangerous drug other than a controlled substance
5 pursuant to a valid prescription that specifies an initial quantity of
6 less than a 90-day supply followed by periodic refills of that
7 amount if all of the following requirements are satisfied:

8 (1) The patient has completed an initial 30-day supply of the
9 dangerous drug.

10 (2) The total quantity of dosage units dispensed does not exceed
11 the total quantity of dosage units authorized by the prescriber on
12 the prescription, including refills.

13 (3) The prescriber has not specified on the prescription that
14 dispensing the prescription in an initial amount followed by
15 periodic refills is medically necessary.

16 (4) The pharmacist is exercising his or her professional
17 judgment.

18 (b) For purposes of this section, if the prescription continues
19 the same medication as previously dispensed in a 90-day supply,
20 the initial 30-day supply under paragraph (1) of subdivision (a) is
21 not required.

22 (c) A pharmacist dispensing an increased supply of a dangerous
23 drug pursuant to this section shall notify the prescriber of the
24 increase in the quantity of dosage units dispensed.

25 (d) In no case shall a pharmacist dispense a greater supply of a
26 dangerous drug pursuant to this section if the prescriber personally
27 indicates, either orally or in his or her own handwriting, "No
28 change to quantity," or words of similar meaning. Nothing in this
29 subdivision shall prohibit a prescriber from checking a box on a
30 prescription marked "No change to quantity," provided that the
31 prescriber personally initials the box or checkmark. To indicate
32 that an increased supply shall not be dispensed pursuant to this
33 section for an electronic data transmission prescription as defined
34 in subdivision (c) of Section 4040, a prescriber may indicate "No
35 change to quantity," or words of similar meaning, in the
36 prescription as transmitted by electronic data, or may check a box
37 marked on the prescription "No change to quantity." In either
38 instance, it shall not be required that the prohibition on an increased
39 supply be manually initialed by the prescriber.

(e) This section ~~shall~~ does not apply to psychotropic medication or psychotropic drugs as described in ~~subdivision (d) of Section 369.5~~ Sections 369.5 and 739.5 of the Welfare and Institutions Code.

(f) *Except for the provisions of subdivision (d), this section does not apply to FDA-approved, self-administered hormonal contraceptives.*

(1) *A pharmacist shall dispense, at a patient's request, up to a 12-month supply of an FDA-approved, self-administered hormonal contraceptive pursuant to a valid prescription that specifies an initial quantity followed by periodic refills.*

(2) *A pharmacist furnishing an FDA-approved self-administered hormonal contraceptive pursuant to Section 4052.3 under protocols developed by the Board of Pharmacy may furnish, at the patient's request, up to a 12-month supply at one time.*

(3) *Nothing in this subdivision shall be construed to require a pharmacist to dispense or furnish a drug if it would result in a violation of Section 733.*

(f)

(g) Nothing in this section shall be construed to require a health care service plan, health insurer, workers' compensation insurance plan, pharmacy benefits manager, or any other person or entity, including, but not limited to, a state program or state employer, to provide coverage for a dangerous drug in a manner inconsistent with a beneficiary's plan benefit.

SEC. 2. Section 369.4 is added to the Welfare and Institutions Code, to read:

369.4. The State Department of Health Care Services, in collaboration with the Judicial Council, shall identify resources, which may include, but need not be limited to, university-based consultation services, to assist the courts in securing ~~second opinions~~ *preauthorization reviews* in those counties in which there are fewer than 10 practicing child and adolescent psychiatrists in order to avoid undue delays in the authorization of medications pursuant to Sections 369.5 and ~~739.5 of the Welfare and Institutions Code.~~ 739.5.

~~SEC. 3. Section 369.5 of the Welfare and Institutions Code is amended to read:~~

~~369.5. (a) If a child is adjudged a dependent child of the court under Section 300 and the child has been removed from the~~

1 physical custody of the parent under Section 361, only a juvenile
2 court judicial officer shall have authority to make orders regarding
3 the administration of psychotropic medications for that child. The
4 juvenile court may issue a specific order delegating this authority
5 to a parent upon making findings on the record that the parent
6 poses no danger to the child and has the capacity to authorize
7 psychotropic medications. Court authorization for the
8 administration of psychotropic medication shall be based on a
9 request from a physician, indicating the reasons for the request, a
10 description of the child's diagnosis and behavior, the expected
11 results of the medication, and a description of any side effects of
12 the medication. On or before July 1, 2000, the Judicial Council
13 shall adopt rules of court and develop appropriate forms for
14 implementation of this section.

15 (b) (1) In counties in which the county child welfare agency
16 completes the request for authorization for the administration of
17 psychotropic medication, the agency is encouraged to complete
18 the request within three business days of receipt from the physician
19 of the information necessary to fully complete the request.

20 (2) Nothing in this subdivision is intended to change current
21 local practice or local court rules with respect to the preparation
22 and submission of requests for authorization for the administration
23 of psychotropic medication.

24 (c) Within seven court days from receipt by the court of a
25 completed request, the juvenile court judicial officer shall either
26 approve or deny in writing a request for authorization for the
27 administration of psychotropic medication to the child, or shall,
28 upon a request by the parent, the legal guardian, or the child's
29 attorney, or upon its own motion, set the matter for hearing.

30 (d) Psychotropic medication or psychotropic drugs are those
31 medications administered for the purpose of affecting the central
32 nervous system to treat psychiatric disorders or illnesses. These
33 medications include, but are not limited to, anxiolytic agents,
34 antidepressants, mood stabilizers, antipsychotic medications,
35 anti-Parkinson agents, hypnotics, medications for dementia, and
36 psychostimulants.

37 (e) Nothing in this section is intended to supersede local court
38 rules regarding a minor's right to participate in mental health
39 decisions.

1 ~~(f) This section shall not apply to nonminor dependents, as~~
2 ~~defined in subdivision (v) of Section 11400.~~

3 ~~(g) This section shall become inoperative on July 1, 2016, and~~
4 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
5 ~~that is enacted before January 1, 2017, deletes or extends that date.~~

6 ~~SEC. 4. Section 369.5 is added to the Welfare and Institutions~~
7 ~~Code, to read:~~

8 ~~369.5. (a) If a child is adjudged a dependent child of the court~~
9 ~~under Section 300 and the child has been removed from the~~
10 ~~physical custody of the parent under Section 361, only a juvenile~~
11 ~~court judicial officer shall have authority to make orders regarding~~
12 ~~the administration of psychotropic medications for that child. The~~
13 ~~juvenile court may issue a specific order delegating this authority~~
14 ~~to a parent, upon making findings on the record that the parent~~
15 ~~poses no danger to the child and has the capacity to authorize~~
16 ~~psychotropic medications. Court authorization for the~~
17 ~~administration of psychotropic medication shall be based on a~~
18 ~~request from a physician, indicating the reasons for the request, a~~
19 ~~description of the child's diagnosis and behavior, the expected~~
20 ~~results of the medication, and a description of any side effects of~~
21 ~~the medication. On or before July 1, 2016, the Judicial Council~~
22 ~~shall adopt rules of court and develop appropriate forms for~~
23 ~~implementation of this section. If the court authorizes the~~
24 ~~administration of a psychotropic medication, it shall verify that~~
25 ~~the administration of the psychotropic medication is only one part~~
26 ~~of a comprehensive treatment plan for the child that shall include~~
27 ~~and specify the psychosocial, behavioral, and alternative services;~~
28 ~~if any, the child will receive in addition to any authorized~~
29 ~~medication.~~

30 ~~(b) (1) An order authorizing the administration of psychotropic~~
31 ~~medications pursuant to this section shall be granted only upon~~
32 ~~the court's determination that the administration of the medication~~
33 ~~is in the best interest of the child based on a determination that the~~
34 ~~anticipated benefits of the psychotropic medication outweigh the~~
35 ~~short- and long-term risks associated with the medications. An~~
36 ~~order authorizing the administration of psychotropic medication~~
37 ~~pursuant to this section shall not be granted if the court determines~~
38 ~~that the medication is being used as punishment, for purposes other~~
39 ~~than the treatment of a diagnosed mental health condition, as a~~

1 ~~substitute for other less-invasive treatments, or in quantities or~~
2 ~~dosages that interfere with the child's treatment program.~~

3 ~~(2) An order authorizing the administration of psychotropic~~
4 ~~medications pursuant to this section shall be granted only if the~~
5 ~~court determines all of the following:~~

6 ~~(A) The court is provided documentation confirming the child's~~
7 ~~caregiver has been informed, and the child has been informed in~~
8 ~~an age and developmentally appropriate manner in the primary~~
9 ~~language of the child, about the recommended medications, the~~
10 ~~anticipated benefits, the nature, degree, duration, and probability~~
11 ~~of side effects and significant risks commonly known by the~~
12 ~~medical profession, and of psychosocial treatments and~~
13 ~~interventions specific to the identified disorder and symptoms to~~
14 ~~be considered concurrently with or as an alternative to the~~
15 ~~medication.~~

16 ~~(i) The documentation shall state that the child and the child's~~
17 ~~caregiver have been asked whether either have concerns regarding~~
18 ~~the medication, and if so, shall describe the nature of those~~
19 ~~concerns.~~

20 ~~(ii) The documentation shall confirm that the child has been~~
21 ~~informed of the right to object to the authorization of psychotropic~~
22 ~~medication and to request a hearing pursuant to subdivision (g).~~

23 ~~(iii) The documentation shall include the written assent or refusal~~
24 ~~to assent of a child who is 12 years of age or older.~~

25 ~~(B) The prescribing physician submitting the request for~~
26 ~~psychotropic medication has conducted a comprehensive~~
27 ~~examination of the child that complies with Section 2242 of the~~
28 ~~Business and Professions Code and that takes into account all of~~
29 ~~the following:~~

30 ~~(i) The child's trauma history.~~

31 ~~(ii) The child's health care history, including medication history.~~

32 ~~(iii) Information from multiple sources that should include, but~~
33 ~~are not limited to, the child, the child's parents, relatives, teacher,~~
34 ~~caregiver or caregivers, past prescribers of psychotropic~~
35 ~~medication, or other health care providers.~~

36 ~~(C) The prescribing physician also confirms all of the following:~~

37 ~~(i) There are no less-invasive treatment options available to meet~~
38 ~~the needs of the child.~~

39 ~~(ii) The dosage or dosage range requested is appropriate for the~~
40 ~~child.~~

~~(iii) The short- and long-term risks associated with the use of psychotropic medications by the child does not outweigh the reported benefits to the child.~~

~~(iv) All appropriate laboratory screenings, measurements, or tests for the child have been completed in accordance with accepted medical guidelines.~~

~~(D) A plan is in place for regular monitoring of the child's medication and psychosocial treatment plan, the effectiveness of the medication and psychosocial treatment, and any potential side effects of the medication, by the physician in consultation with the caregiver, mental health care provider, and others who have contact with the child, as appropriate.~~

~~(3) The person or entity submitting the request for authorization of the administration of psychotropic medication is responsible for providing the necessary documentation of the clinical appropriateness of the proposed psychotropic medication and shall bear the burden of proof.~~

~~(e) A court shall not issue an order authorizing the administration of psychotropic medications for a child described in subdivision (a) unless a second medical opinion is obtained from an appropriately qualified health care professional, as defined in subdivision (b) of Section 1383.15 of the Health and Safety Code, if one or more of the following circumstances exist:~~

~~(1) The request is for any class of psychotropic medication for a child who is five years of age or younger.~~

~~(2) The request would result in the child being administered three or more psychotropic medications concurrently.~~

~~(3) The request is for the concurrent administration of two antipsychotic medications unless the request is for medication tapering and replacement that is limited to no more than 45 days.~~

~~(d) The court shall not authorize the administration of the psychotropic medication for a child described in subdivision (a) unless the court is provided with documentation that appropriate laboratory screenings, measurements, or tests for the child have been completed no more than 45 days prior to submission of the request to the court in accordance with accepted medical guidelines.~~

~~(e) (1) No later than 60 days after the authorization of a new psychotropic medication is granted or at the next review hearing scheduled for a child described in subdivision (a), if scheduled no earlier than 45 days after the authorization of a new psychotropic~~

1 medication, the court shall conduct a review hearing to determine
2 all of the following:

3 (A) Whether the child is taking the medication or medications.

4 (B) Whether psychosocial services and other aspects of the
5 child's treatment plan have been provided to the child.

6 (C) To what extent the symptoms for which the medication or
7 medications were authorized have been alleviated.

8 (D) Whether more time is needed to evaluate the effectiveness
9 of the medication or medications.

10 (E) What, if any, adverse effects the child has suffered.

11 (F) Any steps taken to address those effects.

12 (G) The date or dates of followup visits with the prescribing
13 physician since the medication or medications were authorized.

14 (H) Whether the appropriate followup laboratory screenings
15 have been performed and their findings.

16 (2) Prior to the review, the child's social worker shall submit a
17 report to the court and to counsel for the parties, which shall
18 include information from the child, the child's caregiver, the public
19 health nurse, and the court appointed special advocate, if any.

20 (3) If based upon this review, the court determines that the
21 proffered benefits of the medication have not been demonstrated
22 or that the risks of the medication outweigh the benefits, the court
23 shall reconsider, modify, or revoke its authorization for the
24 administration of medication.

25 (f) (1) In counties in which the county child welfare agency
26 completes the request for authorization for the administration of
27 psychotropic medication, the agency is encouraged to complete
28 the request within three business days of receipt from the physician
29 of the information necessary to fully complete the request.

30 (2) This subdivision is not intended to change current local
31 practice or local court rules with respect to the preparation and
32 submission of requests for authorization for the administration of
33 psychotropic medication.

34 (g) Within seven court days from receipt by the court of a
35 completed request, the juvenile court judicial officer shall either
36 approve or deny in writing a request for authorization for the
37 administration of psychotropic medication to the child, refer the
38 request for a second opinion as required by subdivision (c), or
39 shall, upon a request by the parent, the legal guardian, or the child's
40 attorney, or upon its own motion, set the matter for hearing.

~~(h) If the court grants the request, or modifies and grants the request, the order for authorization is effective until terminated or modified by court order or until 180 days following the date of the order, whichever date occurs earlier.~~

~~(i) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.~~

~~(j) (1) Psychotropic medications may be administered without court authorization to a child described in subdivision (a) in an emergency. An emergency exists if all of the following conditions are met:~~

~~(A) A physician finds that the child requires psychotropic medication to treat a psychiatric disorder or illness.~~

~~(B) The medication is immediately necessary for the preservation of life or the prevention of serious bodily harm to the child or others. It is not necessary for the harm to take place or become unavoidable prior to treatment.~~

~~(C) It is impractical to obtain authorization from the court before administering the psychotropic medication to the child.~~

~~(2) Court authorization shall be sought as soon as practical, but in no case more than two court days after the emergency administration of psychotropic medication.~~

~~(k) This section is not intended to supersede local court rules regarding a minor's right to participate in mental health decisions.~~

~~(l) This section does not grant any person the authority to administer psychotropic medication to a child who indicates a refusal of treatment with the authorized medication. A person shall not threaten, coerce, withhold privileges, or otherwise penalize a child for refusing to take a psychotropic medication. A child described in subdivision (a) shall not be involuntarily administered a psychotropic medication unless otherwise specifically permitted by statute.~~

~~(m) This section shall not apply to nonminor dependents, as defined in subdivision (v) of Section 11400.~~

~~(n) This section shall become operative on July 1, 2016.~~

1 ~~SEC. 5.— Section 739.5 of the Welfare and Institutions Code is~~
2 ~~amended to read:~~

3 ~~739.5.— (a) If a minor who has been adjudged a ward of the~~
4 ~~court under Section 601 or 602 is removed from the physical~~
5 ~~custody of the parent under Section 726 and placed into foster~~
6 ~~care, as defined in Section 727.4, only a juvenile court judicial~~
7 ~~officer shall have authority to make orders regarding the~~
8 ~~administration of psychotropic medications for that minor. The~~
9 ~~juvenile court may issue a specific order delegating this authority~~
10 ~~to a parent upon making findings on the record that the parent~~
11 ~~poses no danger to the minor and has the capacity to authorize~~
12 ~~psychotropic medications. Court authorization for the~~
13 ~~administration of psychotropic medication shall be based on a~~
14 ~~request from a physician, indicating the reasons for the request, a~~
15 ~~description of the minor's diagnosis and behavior, the expected~~
16 ~~results of the medication, and a description of any side effects of~~
17 ~~the medication. On or before July 1, 2008, the Judicial Council~~
18 ~~shall adopt rules of court and develop appropriate forms for~~
19 ~~implementation of this section.~~

20 ~~(b) (1) The agency that completes the request for authorization~~
21 ~~for the administration of psychotropic medication is encouraged~~
22 ~~to complete the request within three business days of receipt from~~
23 ~~the physician of the information necessary to fully complete the~~
24 ~~request.~~

25 ~~(2) Nothing in this subdivision is intended to change current~~
26 ~~local practice or local court rules with respect to the preparation~~
27 ~~and submission of requests for authorization for the administration~~
28 ~~of psychotropic medication.~~

29 ~~(c) Within seven court days from receipt by the court of a~~
30 ~~completed request, the juvenile court judicial officer shall either~~
31 ~~approve or deny in writing a request for authorization for the~~
32 ~~administration of psychotropic medication to the minor, or shall,~~
33 ~~upon a request by the parent, the legal guardian, or the minor's~~
34 ~~attorney, or upon its own motion, set the matter for hearing.~~

35 ~~(d) Psychotropic medication or psychotropic drugs are those~~
36 ~~medications administered for the purpose of affecting the central~~
37 ~~nervous system to treat psychiatric disorders or illnesses. These~~
38 ~~medications include, but are not limited to, anxiolytic agents,~~
39 ~~antidepressants, mood stabilizers, antipsychotic medications,~~

1 anti-Parkinson agents, hypnotics, medications for dementia, and
2 psychostimulants.

3 (e) ~~Nothing in this section is intended to supersede local court~~
4 ~~rules regarding a minor's right to participate in mental health~~
5 ~~decisions.~~

6 (f) ~~This section shall become inoperative on July 1, 2016, and~~
7 ~~as of January 1, 2017, is repealed, unless a later enacted statute,~~
8 ~~that is enacted before January 1, 2017, deletes or extends that date.~~

9 SEC. 6. ~~Section 739.5 is added to the Welfare and Institutions~~
10 ~~Code, to read:~~

11 739.5. (a) ~~If a minor who has been adjudged a ward of the~~
12 ~~court under Section 601 or 602 is removed from the physical~~
13 ~~custody of the parent under Section 726 and placed into foster~~
14 ~~care, as defined in Section 727.4, only a juvenile court judicial~~
15 ~~officer shall have authority to make orders regarding the~~
16 ~~administration of psychotropic medications for that minor. The~~
17 ~~juvenile court may issue a specific order delegating this authority~~
18 ~~to a parent, upon making findings on the record that the parent~~
19 ~~poses no danger to the minor and has the capacity to authorize~~
20 ~~psychotropic medications. Court authorization for the~~
21 ~~administration of psychotropic medication shall be based on a~~
22 ~~request from a physician, indicating the reasons for the request, a~~
23 ~~description of the minor's diagnosis and behavior, the expected~~
24 ~~results of the medication, and a description of any side effects of~~
25 ~~the medication. On or before July 1, 2016, the Judicial Council~~
26 ~~shall adopt rules of court and develop appropriate forms for~~
27 ~~implementation of this section. If the court authorizes the~~
28 ~~administration of a psychotropic medication, it shall verify that~~
29 ~~the administration of the psychotropic medication is only one part~~
30 ~~of a comprehensive treatment plan for the minor that shall include~~
31 ~~and specify the psychosocial, behavioral, and alternative services,~~
32 ~~if any, the minor will receive in addition to any authorized~~
33 ~~medication.~~

34 (b) (1) ~~An order authorizing the administration of psychotropic~~
35 ~~medications pursuant to this section shall be granted only upon~~
36 ~~the court's determination that the administration of the medication~~
37 ~~is in the best interest of the minor based on a determination that~~
38 ~~the anticipated benefits of the psychotropic medication outweigh~~
39 ~~the short- and long-term risks associated with the medications. An~~
40 ~~order authorizing the administration of psychotropic medication~~

1 pursuant to this section shall not be granted if the court determines
2 that the medication is being used as punishment, for purposes other
3 than the treatment of a diagnosed mental health condition, as a
4 substitute for other less invasive treatments, or in quantities or
5 dosages that interfere with the minor's treatment program.

6 (2) ~~An order authorizing the administration of psychotropic~~
7 ~~medications pursuant to this section shall be granted only if the~~
8 ~~court determines all of the following:~~

9 (A) ~~The court is provided documentation confirming the minor's~~
10 ~~caregiver has been informed, and the minor has been informed in~~
11 ~~an age and developmentally appropriate manner in the primary~~
12 ~~language of the minor, about the recommended medications, the~~
13 ~~anticipated benefits, the nature, degree, duration, and probability~~
14 ~~of side effects and significant risks commonly known by the~~
15 ~~medical profession, and of psychosocial treatments and~~
16 ~~interventions specific to the identified disorder and symptoms to~~
17 ~~be considered concurrently with, or as an alternative to, the~~
18 ~~medication.~~

19 (i) ~~The documentation shall state that the minor and the minor's~~
20 ~~caregiver have been asked whether either have concerns regarding~~
21 ~~the medication, and if so, shall describe the nature of those~~
22 ~~concerns.~~

23 (ii) ~~The documentation shall confirm that the minor has been~~
24 ~~informed of the right to object to the authorization of psychotropic~~
25 ~~medication and to request a hearing pursuant to subdivision (g).~~

26 (iii) ~~The documentation shall include the written assent or refusal~~
27 ~~to assent of a minor who is 12 years of age or older.~~

28 (B) ~~The prescribing physician submitting the request for~~
29 ~~psychotropic medication has conducted a comprehensive~~
30 ~~examination of the minor that complies with Section 2242 of the~~
31 ~~Business and Professions Code and that takes into account all of~~
32 ~~the following:~~

33 (i) ~~The minor's trauma history.~~

34 (ii) ~~The minor's health care history, including medication~~
35 ~~history.~~

36 (iii) ~~Information from multiple sources that should include, but~~
37 ~~are not limited to, the minor, the minor's parents, relatives, teacher,~~
38 ~~caregiver or caregivers, past prescribers of psychotropic~~
39 ~~medication, or other health care providers.~~

40 (C) ~~The prescribing physician also confirms all of the following:~~

1 (i) ~~There are no less invasive treatment options available to meet~~
2 ~~the needs of the minor.~~

3 (ii) ~~The dosage or dosage range requested is appropriate for the~~
4 ~~minor.~~

5 (iii) ~~The short- and long-term risks associated with the use of~~
6 ~~psychotropic medications by the minor does not outweigh the~~
7 ~~reported benefits to the minor.~~

8 (iv) ~~All appropriate laboratory screenings, measurements, or~~
9 ~~tests for the minor have been completed in accordance with~~
10 ~~accepted medical guidelines.~~

11 (D) ~~A plan is in place for regular monitoring of the minor's~~
12 ~~medication and psychosocial treatment plan, the effectiveness of~~
13 ~~the medication and psychosocial treatment, and any potential side~~
14 ~~effects of the medication by the physician in consultation with the~~
15 ~~caregiver, mental health care provider, and others who have contact~~
16 ~~with the minor, as appropriate.~~

17 (3) ~~The person or entity submitting the request for authorization~~
18 ~~of the administration of psychotropic medication is responsible~~
19 ~~for providing the necessary documentation of the clinical~~
20 ~~appropriateness of the proposed psychotropic medication and shall~~
21 ~~bear the burden of proof.~~

22 (e) ~~A court shall not issue an order authorizing the administration~~
23 ~~of psychotropic medications for a minor described in subdivision~~
24 ~~(a) unless a second medical opinion is obtained from an~~
25 ~~appropriately qualified health care professional, as defined in~~
26 ~~subdivision (b) of Section 1383.15 of the Health and Safety Code,~~
27 ~~if one or more of the following circumstances exist:~~

28 (1) ~~The request is for any class of psychotropic medication for~~
29 ~~a minor who is five years of age or younger.~~

30 (2) ~~The request would result in the minor being administered~~
31 ~~three or more psychotropic medications concurrently.~~

32 (3) ~~The request is for the concurrent administration of two~~
33 ~~antipsychotic medications unless the request is for medication~~
34 ~~tapering and replacement that is limited to no more than 45 days.~~

35 (d) ~~The court shall not authorize the administration of the~~
36 ~~psychotropic medication for a minor described in subdivision (a)~~
37 ~~unless the court is provided with documentation that appropriate~~
38 ~~laboratory screenings, measurements, or tests for the minor have~~
39 ~~been completed no more than 45 days prior to submission of the~~
40 ~~request to the court in accordance with accepted medical guidelines.~~

1 ~~(e) (1) No later than 60 days after the authorization of a new~~
2 ~~psychotropic medication is granted or at the next review hearing~~
3 ~~scheduled for a minor described in subdivision (a), if scheduled~~
4 ~~no earlier than 45 days after the authorization of a new psychotropic~~
5 ~~medication, the court shall conduct a review hearing to determine~~
6 ~~all of the following:~~

7 ~~(A) Whether the minor is taking the medication or medications.~~

8 ~~(B) Whether psychosocial services and other aspects of the~~
9 ~~minor's treatment plan have been provided to the minor.~~

10 ~~(C) To what extent the symptoms for which the medication or~~
11 ~~medications were authorized have been alleviated.~~

12 ~~(D) Whether more time is needed to evaluate the effectiveness~~
13 ~~of the medication or medications.~~

14 ~~(E) What, if any, adverse effects the minor has suffered.~~

15 ~~(F) Any steps taken to address those effects.~~

16 ~~(G) The date or dates of followup visits with the prescribing~~
17 ~~physician since the medication or medications were authorized.~~

18 ~~(H) Whether the appropriate followup laboratory screenings~~
19 ~~have been performed and their findings.~~

20 ~~(2) Prior to the review, the minor's probation officer shall submit~~
21 ~~a report to the court and to counsel for the parties, which shall~~
22 ~~include information from the minor, the minor's caregiver, the~~
23 ~~public health nurse, and the court appointed special advocate, if~~
24 ~~any.~~

25 ~~(3) If based upon this review, the court determines that the~~
26 ~~proffered benefits of the medication have not been demonstrated~~
27 ~~or that the risks of the medication outweigh the benefits, the court~~
28 ~~shall reconsider, modify, or revoke its authorization for the~~
29 ~~administration of medication.~~

30 ~~(f) (1) The agency that completes the request for authorization~~
31 ~~for the administration of psychotropic medication is encouraged~~
32 ~~to complete the request within three business days of receipt from~~
33 ~~the physician of the information necessary to fully complete the~~
34 ~~request.~~

35 ~~(2) Nothing in this section is intended to change current local~~
36 ~~practice or local court rules with respect to the preparation and~~
37 ~~submission of requests for authorization for the administration of~~
38 ~~psychotropic medication.~~

39 ~~(g) Within seven court days from receipt by the court of a~~
40 ~~completed request, the juvenile court judicial officer shall either~~

1 approve or deny in writing a request for authorization for the
2 administration of psychotropic medication to the minor, refer the
3 request for a second opinion as required by subdivision (c), or
4 shall, upon a request by the parent, the legal guardian, or the
5 minor's attorney, or upon its own motion, set the matter for hearing.

6 (h) If the court grants the request, or modifies and grants the
7 request, the order for authorization is effective until terminated or
8 modified by court order or until 180 days following the date of the
9 order, whichever is earlier.

10 (i) Psychotropic medication or psychotropic drugs are those
11 medications administered for the purpose of affecting the central
12 nervous system to treat psychiatric disorders or illnesses. These
13 medications include, but are not limited to, anxiolytic agents,
14 antidepressants, mood stabilizers, antipsychotic medications,
15 anti-Parkinson agents, hypnotics, medications for dementia, and
16 psychostimulants.

17 (j) (1) Psychotropic medications may be administered without
18 court authorization to a minor described in subdivision (a) in an
19 emergency. An emergency exists if all of the following conditions
20 are met:

21 (A) A physician finds that the minor requires psychotropic
22 medication to treat a psychiatric disorder or illness.

23 (B) The medication is immediately necessary for the
24 preservation of life or the prevention of serious bodily harm to the
25 minor or others. It is not necessary for the harm to take place or
26 become unavoidable prior to treatment.

27 (C) It is impractical to obtain authorization from the court before
28 administering the psychotropic medication to the minor.

29 (2) Court authorization shall be sought as soon as practical, but
30 in no case more than two court days after the emergency
31 administration of psychotropic medication.

32 (k) This section is not intended to supersede local court rules
33 regarding a minor's right to participate in mental health decisions.

34 (l) This section does not grant any person the authority to
35 administer psychotropic medication to a minor who indicates a
36 refusal of treatment with the authorized medication. A person shall
37 not threaten, coerce, withhold privileges, or otherwise penalize a
38 minor for refusing to take a psychotropic medication. A minor
39 described in subdivision (a) shall not be involuntarily administered

1 a psychotropic medication unless otherwise specifically permitted
2 by statute.

3 ~~(m) This section shall become operative on July 1, 2016.~~

4 ~~SEC. 7. If the Commission on State Mandates determines that~~
5 ~~this act contains costs mandated by the state, reimbursement to~~
6 ~~local agencies and school districts for those costs shall be made~~
7 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
8 ~~4 of Title 2 of the Government Code.~~

9 *SEC. 3. Section 369.5 of the Welfare and Institutions Code is*
10 *amended to read:*

11 369.5. (a) (1) If a child is adjudged a dependent child of the
12 court under Section 300 and ~~the child~~ has been removed from the
13 physical custody of the parent under Section 361, only a juvenile
14 court judicial officer shall have authority to make orders regarding
15 the administration of psychotropic medications for that child. The
16 juvenile court may issue a specific order delegating this authority
17 to a parent upon making findings on the record that the parent
18 poses no danger to the child and has the capacity to authorize
19 psychotropic medications. Court authorization for the
20 administration of psychotropic medication shall be based on a
21 request from a physician, indicating the reasons for the request, a
22 description of the child's diagnosis and behavior, the expected
23 results of the medication, and a description of any side effects of
24 the medication.

25 (2) (A) On or before July 1, 2016, the Judicial Council shall
26 amend and adopt rules of court and develop appropriate forms for
27 the implementation of this section, in consultation with the State
28 Department of Social Services, the State Department of Health
29 Care Services, and stakeholders, including, but not limited to, the
30 County Welfare Directors Association of California, the County
31 Behavioral Health Directors Association of California, the Chief
32 Probation Officers of California, associations representing current
33 and former foster children, caregivers, and children's attorneys.
34 This effort shall be undertaken in coordination with the updates
35 required under paragraph (2) of subdivision (a) of Section 739.5.

36 (B) The rules of court and forms developed pursuant to
37 subparagraph (A) shall address all of the following:

38 (i) The child and his or her caregiver and court-appointed special
39 advocate, if any, have an opportunity to provide input on the
40 medications being prescribed.

1 (ii) Information regarding the child's overall mental health
2 assessment and treatment plan is provided to the court.

3 (iii) Information regarding the rationale for the proposed
4 medication, provided in the context of past and current treatment
5 efforts, is provided to the court. This information shall include,
6 but not be limited to, information on other pharmacological and
7 nonpharmacological treatments that have been utilized and the
8 child's response to those treatments, a discussion of symptoms not
9 alleviated or ameliorated by other current or past treatment efforts,
10 and an explanation of how the psychotropic medication being
11 prescribed is expected to improve the child's symptoms.

12 (iv) Guidance is provided to the court on how to evaluate the
13 request for authorization, including how to proceed if information,
14 otherwise required to be included in a request for authorization
15 under this section, is not included in a request for authorization
16 submitted to the court.

17 (C) The rules of court and forms developed pursuant to
18 subparagraph (A) shall include a process for periodic oversight by
19 the court of orders regarding the administration of psychotropic
20 medications that includes the caregiver's and child's observations
21 regarding the effectiveness of the medication and side effects,
22 information on medication management appointments and other
23 followup appointments with medical practitioners, and information
24 on the delivery of other mental health treatments that are a part of
25 the child's overall treatment plan. The periodic oversight shall be
26 facilitated by the county social worker, public health nurse, or
27 other appropriate county staff. This oversight process shall be
28 conducted in conjunction with other regularly scheduled court
29 hearings and reports provided to the court by the county child
30 welfare agency.

31 (b) (1) In counties in which the county child welfare agency
32 completes the request for authorization for the administration of
33 psychotropic medication, the agency is encouraged to complete
34 the request within three business days of receipt from the physician
35 of the information necessary to fully complete the request.

36 (2) Nothing in this subdivision is intended to change current
37 local practice or local court rules with respect to the preparation
38 and submission of requests for authorization for the administration
39 of psychotropic medication.

(c) (1) Within seven court days from receipt by the court of a completed request, the juvenile court judicial officer shall either approve or deny in writing a request for authorization for the administration of psychotropic medication to the child, or shall, upon a request by the parent, the legal guardian, or the child's attorney, or upon its own motion, set the matter for hearing.

(2) Notwithstanding Section 827 or any other law, upon the approval or denial by the juvenile court judicial officer of a request for authorization for the administration of psychotropic medication, the county child welfare agency or other person or entity who submitted the request shall provide a copy of the court order approving or denying the request to the child's caregiver.

(d) Psychotropic medication or psychotropic drugs are those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses. These medications include, but are not limited to, anxiolytic agents, antidepressants, mood stabilizers, antipsychotic medications, anti-Parkinson agents, hypnotics, medications for dementia, and psychostimulants.

(e) Nothing in this section is intended to supersede local court rules regarding a minor's right to participate in mental health decisions.

(f) This section does not apply to nonminor dependents, as defined in subdivision (v) of Section 11400.

(g) *This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.*

SEC. 4. *Section 369.5 is added to the Welfare and Institutions Code, to read:*

369.5. (a) *If a child is adjudged a dependent child of the court under Section 300 and has been removed from the physical custody of the parent under Section 361, only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications for that child. The juvenile court may issue a specific order delegating this authority to a parent, upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications. Court authorization for the administration of psychotropic medication shall be based on a request from a physician, indicating the reasons for the request,*

1 a description of the child's diagnosis and behavior, the expected
2 results of the medication, and a description of any side effects of
3 the medication. If the court authorizes the administration of a
4 psychotropic medication, it shall verify that the administration of
5 the psychotropic medication is only one part of a comprehensive
6 treatment plan for the child that shall include and specify the
7 psychosocial, behavioral, and alternative services, if any, the child
8 will receive in addition to any authorized medication.

9 (b) (1) An order authorizing the administration of psychotropic
10 medications pursuant to this section shall be granted only upon
11 the court's determination that the administration of the medication
12 is in the best interest of the child based on a determination that
13 the anticipated benefits of the psychotropic medication outweigh
14 the short- and long-term risks associated with the medications. An
15 order authorizing the administration of psychotropic medication
16 pursuant to this section shall not be granted if the court determines
17 that the medication is being used as punishment, for purposes
18 other than the treatment of a diagnosed mental health condition,
19 as a substitute for other less invasive treatments, or in quantities
20 or dosages that interfere with the child's treatment program.

21 (2) An order authorizing the administration of psychotropic
22 medications pursuant to this section shall be granted only if the
23 court determines all of the following:

24 (A) The court is provided documentation confirming the child's
25 caregiver has been informed, and the child has been informed in
26 an age and developmentally appropriate manner in the primary
27 language of the child, about the recommended medications, the
28 anticipated benefits, the nature, degree, duration, and probability
29 of side effects and significant risks commonly known by the medical
30 profession, and of psychosocial treatments and interventions
31 specific to the identified disorder and symptoms to be considered
32 concurrently with or as an alternative to the medication.

33 (i) The documentation shall state that the child and the child's
34 caregiver have been asked whether either have concerns regarding
35 the medication, and, if so, shall describe the nature of those
36 concerns.

37 (ii) The documentation shall confirm that the child has been
38 informed of the right to object to the authorization of psychotropic
39 medication and to request a hearing pursuant to paragraph (1) of
40 subdivision (g).

1 (iii) *The documentation shall include the written consent or*
2 *refusal to consent of a child who is 12 years of age or older.*

3 (B) *The prescribing physician submitting the request for*
4 *psychotropic medication was provided a copy of the child's health*
5 *and education summary or passport as described in Section 16010.*

6 (C) *The prescribing physician also confirms all of the following:*

7 (i) *There are no less invasive treatment options available to*
8 *meet the needs of the child.*

9 (ii) *The dosage or dosage range requested is appropriate for*
10 *the child.*

11 (iii) *The short- and long-term risks associated with the use of*
12 *psychotropic medications by the child do not outweigh the reported*
13 *benefits to the child.*

14 (iv) *All appropriate measurements have been completed and*
15 *all appropriate laboratory screenings or tests have been performed*
16 *or ordered for the child in accordance with accepted medical*
17 *guidelines.*

18 (D) *A plan is in place for regular monitoring of the child's*
19 *medication and psychosocial treatment plan, the effectiveness of*
20 *the medication and psychosocial treatment, and any potential side*
21 *effects of the medication, by the physician in consultation with the*
22 *caregiver, mental health care provider, and others who have*
23 *contact with the child, as appropriate.*

24 (3) *The person or entity submitting the request for authorization*
25 *of the administration of psychotropic medication is responsible*
26 *for providing the necessary documentation of the clinical*
27 *appropriateness of the proposed psychotropic medication and*
28 *shall bear the burden of proof.*

29 (c) (1) *A court shall not issue an order authorizing the*
30 *administration of psychotropic medications for a child described*
31 *in subdivision (a) unless a preauthorization review is obtained*
32 *from a child psychiatrist or behavioral pediatrician, if one or more*
33 *of the following circumstances exist:*

34 (A) *The request is for any class of psychotropic medication for*
35 *a child who is five years of age or younger.*

36 (B) *The request would result in the child being administered*
37 *three or more psychotropic medications concurrently.*

38 (C) *The request is for the concurrent administration of two*
39 *antipsychotic medications unless the request is for medication*
40 *tapering and replacement that is limited to no more than 45 days.*

(2) Preauthorization review under this subdivision does not require a face-to-face assessment of the child for whom the psychotropic medications are prescribed. The court, on its own motion or upon the request of the child's attorney or the parent or parent's attorney, may order that assessment to be completed before deciding whether or not to approve the request to authorize the medication. The health care professional providing the preauthorization review shall review all the information submitted to the court, including, but not limited to, the prescribing physician's statement and the child's health and education summary or passport, and, if deemed necessary, conduct a telephone consultation with the prescriber or the public health nurse responsible for the child pursuant to Section 16501.3.

(d) The court shall not authorize the administration of the psychotropic medication for a child described in subdivision (a) unless the court is provided with documentation that appropriate laboratory screenings, measurements, or tests for the child have been completed no more than 45 days prior to submission of the request to the court in accordance with accepted medical guidelines.

(e) (1) No later than 60 days after the authorization of a new psychotropic medication is granted or at the next review hearing scheduled for a child described in subdivision (a), if scheduled no earlier than 45 days after the authorization of a new psychotropic medication, the court shall conduct a review hearing to determine all of the following:

(A) Whether the child is taking the medication or medications.

(B) Whether psychosocial services and other aspects of the child's treatment plan have been provided to the child.

(C) To what extent the symptoms for which the medication or medications were authorized have been alleviated.

(D) Whether more time is needed to evaluate the effectiveness of the medication or medications.

(E) What, if any, adverse effects the child has suffered.

(F) Any steps taken to address those effects.

(G) The date or dates of followup visits with the prescribing physician since the medication or medications were authorized.

(H) Whether the appropriate followup laboratory screenings have been performed and their findings.

1 (2) *Prior to the review, the child's social worker shall submit*
2 *a report to the court and to counsel for the parties, which shall*
3 *include information from the child, the child's caregiver, the public*
4 *health nurse, and the court-appointed special advocate, if any.*

5 (3) *If, based upon this review, the court determines that the*
6 *proffered benefits of the medication have not been demonstrated*
7 *or that the risks of the medication outweigh the benefits, the court*
8 *shall reconsider, modify, or revoke its authorization for the*
9 *administration of medication.*

10 (f) (1) *In counties in which the county child welfare agency*
11 *completes the request for authorization for the administration of*
12 *psychotropic medication, the agency is encouraged to complete*
13 *the request within three business days of receipt from the physician*
14 *of the information necessary to fully complete the request.*

15 (2) *Nothing in this subdivision is intended to change current*
16 *local practice or local court rules with respect to the preparation*
17 *and submission of requests for authorization for the administration*
18 *of psychotropic medication.*

19 (g) (1) *Within seven court days from receipt by the court of a*
20 *completed request, the juvenile court judicial officer shall either*
21 *approve or deny in writing a request for authorization for the*
22 *administration of psychotropic medication to the child, refer the*
23 *request for a preauthorization review as required by subdivision*
24 *(c), or shall, upon a request by the parent, the legal guardian, or*
25 *the child's attorney, or upon its own motion, set the matter for*
26 *hearing.*

27 (2) *Notwithstanding Section 827 or any other law, upon the*
28 *approval or denial by the juvenile court judicial officer of a request*
29 *for authorization for the administration of psychotropic medication,*
30 *the county child welfare agency or other person or entity who*
31 *submitted the request shall provide a copy of the court order*
32 *approving or denying the request to the child's caregiver.*

33 (h) *If the court grants the request, or modifies and grants the*
34 *request, the order for authorization is effective until terminated*
35 *or modified by court order or until 180 days following the date of*
36 *the order, whichever event occurs earlier.*

37 (i) *Psychotropic medication or psychotropic drugs are those*
38 *medications administered for the purpose of affecting the central*
39 *nervous system to treat psychiatric disorders or illnesses. These*
40 *medications include, but are not limited to, anxiolytic agents,*

1 *antidepressants, mood stabilizers, antipsychotic medications,*
2 *anti-Parkinson agents, hypnotics, medications for dementia, and*
3 *psychostimulants.*

4 *(j) (1) Psychotropic medications may be administered without*
5 *court authorization to a child described in subdivision (a) in an*
6 *emergency. An emergency exists if all of the following conditions*
7 *are met:*

8 *(A) A physician finds that the child requires psychotropic*
9 *medication to treat a psychiatric disorder or illness.*

10 *(B) The medication is immediately necessary for the preservation*
11 *of life or the prevention of serious bodily harm to the child or*
12 *others. It is not necessary for the harm to take place or become*
13 *unavoidable prior to treatment.*

14 *(C) It is impractical to obtain authorization from the court*
15 *before administering the psychotropic medication to the child.*

16 *(2) Court authorization shall be sought as soon as practical,*
17 *but in no case more than two court days after the emergency*
18 *administration of psychotropic medication.*

19 *(k) This section is not intended to supersede local court rules*
20 *regarding a minor's right to participate in mental health decisions.*

21 *(l) This section does not grant any person the authority to*
22 *administer psychotropic medication to a child who indicates a*
23 *refusal of treatment with the authorized medication. A person shall*
24 *not threaten, coerce, withhold privileges, or otherwise penalize a*
25 *child for refusing to take a psychotropic medication. A child*
26 *described in subdivision (a) shall not be involuntarily administered*
27 *a psychotropic medication unless otherwise specifically permitted*
28 *by law.*

29 *(m) This section does not apply to nonminor dependents, as*
30 *defined in subdivision (v) of Section 11400.*

31 *(n) (1) On or before January 1, 2018, the Judicial Council shall*
32 *amend and adopt rules of court and develop appropriate forms*
33 *for the implementation of this section, in consultation with the*
34 *State Department of Social Services, the State Department of*
35 *Health Care Services, and stakeholders, including, but not limited*
36 *to, the County Welfare Directors Association of California, the*
37 *County Behavioral Health Directors Association of California,*
38 *the Chief Probation Officers of California, associations*
39 *representing current and former foster children, caregivers, and*
40 *children's attorneys. This effort shall be undertaken in coordination*

1 *with the updates required under paragraph (1) of subdivision (n)*
2 *of Section 739.5.*

3 *(2) The rules of court and forms developed pursuant to*
4 *paragraph (1) shall address all of the following:*

5 *(A) The child and his or her caregiver and court-appointed*
6 *special advocate, if any, have an opportunity to provide input on*
7 *the medications being prescribed.*

8 *(B) Information regarding the child's overall mental health*
9 *assessment and treatment plan is provided to the court.*

10 *(C) Information regarding the rationale for the proposed*
11 *medication, provided in the context of past and current treatment*
12 *efforts, is provided to the court. This information shall include,*
13 *but not be limited to, information on other pharmacological and*
14 *nonpharmacological treatments that have been utilized and the*
15 *child's response to those treatments, a discussion of symptoms not*
16 *alleviated or ameliorated by other current or past treatment efforts,*
17 *and an explanation of how the psychotropic medication being*
18 *prescribed is expected to improve the child's symptoms.*

19 *(D) Guidance is provided to the court on how to evaluate the*
20 *request for authorization, including how to proceed if information,*
21 *otherwise required to be included in a request for authorization*
22 *under this section, is not included in a request for authorization*
23 *submitted to the court.*

24 *(3) The rules of court and forms developed pursuant to*
25 *paragraph (1) shall include a process for periodic oversight by*
26 *the court of orders regarding the administration of psychotropic*
27 *medications that includes the caregiver's and child's observations*
28 *regarding the effectiveness of the medication and side effects,*
29 *information on medication management appointments and other*
30 *followup appointments with medical practitioners, and information*
31 *on the delivery of other mental health treatments that are a part*
32 *of the child's overall treatment plan. The periodic oversight shall*
33 *be facilitated by the county social worker, public health nurse, or*
34 *other appropriate county staff. This oversight process shall be*
35 *conducted in conjunction with other regularly scheduled court*
36 *hearings and reports provided to the court by the county child*
37 *welfare agency.*

38 *(o) This section shall become operative on January 1, 2018.*

39 *SEC. 5. Section 739.5 of the Welfare and Institutions Code is*
40 *amended to read:*

1 739.5. (a) (1) If a minor who has been adjudged a ward of the
2 court under Section 601 or 602 is removed from the physical
3 custody of the parent under Section 726 and placed into foster
4 care, as defined in Section 727.4, only a juvenile court judicial
5 officer shall have authority to make orders regarding the
6 administration of psychotropic medications for that minor. The
7 juvenile court may issue a specific order delegating this authority
8 to a parent upon making findings on the record that the parent
9 poses no danger to the minor and has the capacity to authorize
10 psychotropic medications. Court authorization for the
11 administration of psychotropic medication shall be based on a
12 request from a physician, indicating the reasons for the request, a
13 description of the minor's diagnosis and behavior, the expected
14 results of the medication, and a description of any side effects of
15 the medication.

16 (2) (A) On or before July 1, 2016, the Judicial Council shall
17 amend and adopt rules of court and develop appropriate forms for
18 the implementation of this section, in consultation with the State
19 Department of Social Services, the State Department of Health
20 Care Services, and stakeholders, including, but not limited to, the
21 County Welfare Directors Association of California, the County
22 Behavioral Health Directors Association of California, the Chief
23 Probation Officers of California, associations representing current
24 and former foster children, caregivers, and ~~minor's~~ *minors'*
25 attorneys. This effort shall be undertaken in coordination with the
26 updates required under paragraph (2) of subdivision (a) of Section
27 369.5.

28 (B) The rules of court and forms developed pursuant to
29 subparagraph (A) shall address all of the following:

30 (i) The minor and his or her caregiver and court-appointed
31 special advocate, if any, have an opportunity to provide input on
32 the medications being prescribed.

33 (ii) Information regarding the minor's overall mental health
34 assessment and treatment plan is provided to the court.

35 (iii) Information regarding the rationale for the proposed
36 medication, provided in the context of past and current treatment
37 efforts, is provided to the court. This information shall include,
38 but not be limited to, information on other pharmacological and
39 nonpharmacological treatments that have been utilized and the
40 minor's response to those treatments, a discussion of symptoms

1 not alleviated or ameliorated by other current or past treatment
2 efforts, and an explanation of how the psychotropic medication
3 being prescribed is expected to improve the minor's symptoms.

4 (iv) Guidance is provided to the court on how to evaluate the
5 request for authorization, including how to proceed if information,
6 otherwise required to be included in a request for authorization
7 under this section, is not included in a request for authorization
8 submitted to the court.

9 (C) The rules of court and forms developed pursuant to
10 subparagraph (A) shall include a process for periodic oversight by
11 the court of orders regarding the administration of psychotropic
12 medications that includes the caregiver's and minor's observations
13 regarding the effectiveness of the medication and side effects,
14 information on medication management appointments and other
15 followup appointments with medical practitioners, and information
16 on the delivery of other mental health treatments that are a part of
17 the minor's overall treatment plan. This oversight process shall be
18 conducted in conjunction with other regularly scheduled court
19 hearings and reports provided to the court by the county probation
20 agency.

21 (b) (1) The agency that completes the request for authorization
22 for the administration of psychotropic medication is encouraged
23 to complete the request within three business days of receipt from
24 the physician of the information necessary to fully complete the
25 request.

26 (2) Nothing in this subdivision is intended to change current
27 local practice or local court rules with respect to the preparation
28 and submission of requests for authorization for the administration
29 of psychotropic medication.

30 (c) (1) Within seven court days from receipt by the court of a
31 completed request, the juvenile court judicial officer shall either
32 approve or deny in writing a request for authorization for the
33 administration of psychotropic medication to the minor, or shall,
34 upon a request by the parent, the legal guardian, or the minor's
35 attorney, or upon its own motion, set the matter for hearing.

36 (2) Notwithstanding Section 827 or any other law, upon the
37 approval or denial by the juvenile court judicial officer of a request
38 for authorization for the administration of psychotropic medication,
39 the county probation agency or other person or entity who

1 submitted the request shall provide a copy of the court order
2 approving or denying the request to the minor's caregiver.

3 (d) Psychotropic medication or psychotropic drugs are those
4 medications administered for the purpose of affecting the central
5 nervous system to treat psychiatric disorders or illnesses. These
6 medications include, but are not limited to, anxiolytic agents,
7 antidepressants, mood stabilizers, antipsychotic medications,
8 anti-Parkinson agents, hypnotics, medications for dementia, and
9 psychostimulants.

10 (e) Nothing in this section is intended to supersede local court
11 rules regarding a minor's right to participate in mental health
12 decisions.

13 (f) This section does not apply to nonminor dependents, as
14 defined in subdivision (v) of Section 11400.

15 (g) *This section shall remain in effect only until January 1, 2018,*
16 *and as of that date is repealed, unless a later enacted statute, that*
17 *is enacted before January 1, 2018, deletes or extends that date.*

18 SEC. 6. Section 739.5 is added to the Welfare and Institutions
19 Code, to read:

20 739.5. (a) *If a minor who has been adjudged a ward of the*
21 *court under Section 601 or 602 is removed from the physical*
22 *custody of the parent under Section 726 and placed into foster*
23 *care, as defined in Section 727.4, only a juvenile court judicial*
24 *officer shall have authority to make orders regarding the*
25 *administration of psychotropic medications for that minor. The*
26 *juvenile court may issue a specific order delegating this authority*
27 *to a parent, upon making findings on the record that the parent*
28 *poses no danger to the minor and has the capacity to authorize*
29 *psychotropic medications. Court authorization for the*
30 *administration of psychotropic medication shall be based on a*
31 *request from a physician, indicating the reasons for the request,*
32 *a description of the minor's diagnosis and behavior, the expected*
33 *results of the medication, and a description of any side effects of*
34 *the medication. If the court authorizes the administration of a*
35 *psychotropic medication, it shall verify that the administration of*
36 *the psychotropic medication is only one part of a comprehensive*
37 *treatment plan for the minor that shall include and specify the*
38 *psychosocial, behavioral, and alternative services, if any, the minor*
39 *will receive in addition to any authorized medication.*

1 **(b) (1)** *An order authorizing the administration of psychotropic*
2 *medications pursuant to this section shall be granted only upon*
3 *the court's determination that the administration of the medication*
4 *is in the best interest of the minor based on a determination that*
5 *the anticipated benefits of the psychotropic medication outweigh*
6 *the short- and long-term risks associated with the medications. An*
7 *order authorizing the administration of psychotropic medication*
8 *pursuant to this section shall not be granted if the court determines*
9 *that the medication is being used as punishment, for purposes*
10 *other than the treatment of a diagnosed mental health condition,*
11 *as a substitute for other less invasive treatments, or in quantities*
12 *or dosages that interfere with the minor's treatment program.*

13 **(2)** *An order authorizing the administration of psychotropic*
14 *medications pursuant to this section shall be granted only if the*
15 *court determines all of the following:*

16 **(A)** *The court is provided documentation confirming the minor's*
17 *caregiver has been informed, and the minor has been informed in*
18 *an age and developmentally appropriate manner in the primary*
19 *language of the minor, about the recommended medications, the*
20 *anticipated benefits, the nature, degree, duration, and probability*
21 *of side effects and significant risks commonly known by the medical*
22 *profession, and of psychosocial treatments and interventions*
23 *specific to the identified disorder and symptoms to be considered*
24 *concurrently with, or as an alternative to, the medication.*

25 **(i)** *The documentation shall state that the minor and the minor's*
26 *caregiver have been asked whether either have concerns regarding*
27 *the medication, and, if so, shall describe the nature of those*
28 *concerns.*

29 **(ii)** *The documentation shall confirm that the minor has been*
30 *informed of the right to object to the authorization of psychotropic*
31 *medication and to request a hearing pursuant to paragraph (1) of*
32 *subdivision (g).*

33 **(iii)** *The documentation shall include the written consent or*
34 *refusal to consent of a minor who is 12 years of age or older.*

35 **(B)** *The prescribing physician submitting the request for*
36 *psychotropic medication was provided a copy of the child's health*
37 *and education summary or passport as described in Section 16010.*

38 **(C)** *The prescribing physician also confirms all of the following:*

39 **(i)** *There are no less invasive treatment options available to*
40 *meet the needs of the minor.*

1 (ii) *The dosage or dosage range requested is appropriate for*
2 *the minor.*

3 (iii) *The short- and long-term risks associated with the use of*
4 *psychotropic medications by the minor do not outweigh the*
5 *reported benefits to the minor.*

6 (iv) *All appropriate measurements have been completed and*
7 *all appropriate laboratory screenings or tests have been performed*
8 *or ordered for the child in accordance with accepted medical*
9 *guidelines.*

10 (D) *A plan is in place for regular monitoring of the minor's*
11 *medication and psychosocial treatment plan, the effectiveness of*
12 *the medication and psychosocial treatment, and any potential side*
13 *effects of the medication by the physician in consultation with the*
14 *caregiver, mental health care provider, and others who have*
15 *contact with the minor, as appropriate.*

16 (3) *The person or entity submitting the request for authorization*
17 *of the administration of psychotropic medication is responsible*
18 *for providing the necessary documentation of the clinical*
19 *appropriateness of the proposed psychotropic medication and*
20 *shall bear the burden of proof.*

21 (c) (1) *A court shall not issue an order authorizing the*
22 *administration of psychotropic medications for a minor described*
23 *in subdivision (a) unless a preauthorization review is obtained*
24 *from a child psychiatrist or behavioral pediatrician, if one or more*
25 *of the following circumstances exist:*

26 (A) *The request is for any class of psychotropic medication for*
27 *a minor who is five years of age or younger.*

28 (B) *The request would result in the minor being administered*
29 *three or more psychotropic medications concurrently.*

30 (C) *The request is for the concurrent administration of two*
31 *antipsychotic medications unless the request is for medication*
32 *tapering and replacement that is limited to no more than 45 days.*

33 (2) *Preauthorization review under this subdivision does not*
34 *require a face-to-face assessment of the child for whom the*
35 *psychotropic medications are prescribed. The court, on its own*
36 *motion or upon the request of the child's attorney or the parent*
37 *or parent's attorney, may order that assessment to be completed*
38 *before deciding whether or not to approve the request to authorize*
39 *the medication. The health care professional providing the*
40 *preauthorization review shall review all the information submitted*

1 to the court, including, but not limited to, the prescribing
2 physician's statement and the child's health and education
3 summary or passport, and, if deemed necessary, conduct a
4 telephone consultation with the prescriber or the public health
5 nurse responsible for the child pursuant to Section 16501.3.

6 (d) The court shall not authorize the administration of the
7 psychotropic medication for a minor described in subdivision (a)
8 unless the court is provided with documentation that appropriate
9 laboratory screenings, measurements, or tests for the minor have
10 been completed no more than 45 days prior to submission of the
11 request to the court in accordance with accepted medical
12 guidelines.

13 (e) (1) No later than 60 days after the authorization of a new
14 psychotropic medication is granted or at the next review hearing
15 scheduled for a minor described in subdivision (a), if scheduled
16 no earlier than 45 days after the authorization of a new
17 psychotropic medication, the court shall conduct a review hearing
18 to determine all of the following:

19 (A) Whether the minor is taking the medication or medications.

20 (B) Whether psychosocial services and other aspects of the
21 minor's treatment plan have been provided to the minor.

22 (C) To what extent the symptoms for which the medication or
23 medications were authorized have been alleviated.

24 (D) Whether more time is needed to evaluate the effectiveness
25 of the medication or medications.

26 (E) What, if any, adverse effects the minor has suffered.

27 (F) Any steps taken to address those effects.

28 (G) The date or dates of followup visits with the prescribing
29 physician since the medication or medications were authorized.

30 (H) Whether the appropriate followup laboratory screenings
31 have been performed and their findings.

32 (2) Prior to the review, the minor's probation officer shall
33 submit a report to the court and to counsel for the parties, which
34 shall include information from the minor, the minor's caregiver,
35 the public health nurse, and the court-appointed special advocate,
36 if any.

37 (3) If, based upon this review, the court determines that the
38 proffered benefits of the medication have not been demonstrated
39 or that the risks of the medication outweigh the benefits, the court

1 *shall reconsider, modify, or revoke its authorization for the*
2 *administration of medication.*

3 *(f) (1) The agency that completes the request for authorization*
4 *for the administration of psychotropic medication is encouraged*
5 *to complete the request within three business days of receipt from*
6 *the physician of the information necessary to fully complete the*
7 *request.*

8 *(2) Nothing in this subdivision is intended to change current*
9 *local practice or local court rules with respect to the preparation*
10 *and submission of requests for authorization for the administration*
11 *of psychotropic medication.*

12 *(g) (1) Within seven court days from receipt by the court of a*
13 *completed request, the juvenile court judicial officer shall either*
14 *approve or deny in writing a request for authorization for the*
15 *administration of psychotropic medication to the minor, refer the*
16 *request for a preauthorization review as required by subdivision*
17 *(c), or shall, upon a request by the parent, the legal guardian, or*
18 *the minor's attorney, or upon its own motion, set the matter for*
19 *hearing.*

20 *(2) Notwithstanding Section 827 or any other law, upon the*
21 *approval or denial by the juvenile court judicial officer of a request*
22 *for authorization for the administration of psychotropic medication,*
23 *the county probation agency or other person or entity who*
24 *submitted the request shall provide a copy of the court order*
25 *approving or denying the request to the minor's caregiver.*

26 *(h) If the court grants the request, or modifies and grants the*
27 *request, the order for authorization is effective until terminated*
28 *or modified by court order or until 180 days following the date of*
29 *the order, whichever event occurs earlier.*

30 *(i) Psychotropic medication or psychotropic drugs are those*
31 *medications administered for the purpose of affecting the central*
32 *nervous system to treat psychiatric disorders or illnesses. These*
33 *medications include, but are not limited to, anxiolytic agents,*
34 *antidepressants, mood stabilizers, antipsychotic medications,*
35 *anti-Parkinson agents, hypnotics, medications for dementia, and*
36 *psychostimulants.*

37 *(j) (1) Psychotropic medications may be administered without*
38 *court authorization to a minor described in subdivision (a) in an*
39 *emergency. An emergency exists if all of the following conditions*
40 *are met:*

1 (A) A physician finds that the minor requires psychotropic
2 medication to treat a psychiatric disorder or illness.

3 (B) The medication is immediately necessary for the preservation
4 of life or the prevention of serious bodily harm to the minor or
5 others. It is not necessary for the harm to take place or become
6 unavoidable prior to treatment.

7 (C) It is impractical to obtain authorization from the court
8 before administering the psychotropic medication to the minor.

9 (2) Court authorization shall be sought as soon as practical,
10 but in no case more than two court days after the emergency
11 administration of psychotropic medication.

12 (k) This section is not intended to supersede local court rules
13 regarding a minor's right to participate in mental health decisions.

14 (l) This section does not grant any person the authority to
15 administer psychotropic medication to a minor who indicates a
16 refusal of treatment with the authorized medication. A person shall
17 not threaten, coerce, withhold privileges, or otherwise penalize a
18 minor for refusing to take a psychotropic medication. A minor
19 described in subdivision (a) shall not be involuntarily administered
20 a psychotropic medication unless otherwise specifically permitted
21 by law.

22 (m) This section does not apply to nonminor dependents, as
23 defined in subdivision (v) of Section 11400.

24 (n) (1) On or before January 1, 2018, the Judicial Council shall
25 amend and adopt rules of court and develop appropriate forms
26 for the implementation of this section, in consultation with the
27 State Department of Social Services, the State Department of
28 Health Care Services, and stakeholders, including, but not limited
29 to, the County Welfare Directors Association of California, the
30 County Behavioral Health Directors Association of California,
31 the Chief Probation Officers of California, associations
32 representing current and former foster children, caregivers, and
33 minors' attorneys. This effort shall be undertaken in coordination
34 with the updates required under paragraph (1) of subdivision (n)
35 of Section 369.5.

36 (2) The rules of court and forms developed pursuant to
37 paragraph (1) shall address all of the following:

38 (A) The minor and his or her caregiver and court-appointed
39 special advocate, if any, have an opportunity to provide input on
40 the medications being prescribed.

1 (B) Information regarding the minor's overall mental health
2 assessment and treatment plan is provided to the court.

3 (C) Information regarding the rationale for the proposed
4 medication, provided in the context of past and current treatment
5 efforts, is provided to the court. This information shall include,
6 but not be limited to, information on other pharmacological and
7 nonpharmacological treatments that have been utilized and the
8 minor's response to those treatments, a discussion of symptoms
9 not alleviated or ameliorated by other current or past treatment
10 efforts, and an explanation of how the psychotropic medication
11 being prescribed is expected to improve the minor's symptoms.

12 (D) Guidance is provided to the court on how to evaluate the
13 request for authorization, including how to proceed if information,
14 otherwise required to be included in a request for authorization
15 under this section, is not included in a request for authorization
16 submitted to the court.

17 (3) The rules of court and forms developed pursuant to
18 paragraph (1) shall include a process for periodic oversight by
19 the court of orders regarding the administration of psychotropic
20 medications that includes the caregiver's and minor's observations
21 regarding the effectiveness of the medication and side effects,
22 information on medication management appointments and other
23 followup appointments with medical practitioners, and information
24 on the delivery of other mental health treatments that are a part
25 of the minor's overall treatment plan. This oversight process shall
26 be conducted in conjunction with other regularly scheduled court
27 hearings and reports provided to the court by the county probation
28 agency.

29 (o) This section shall become operative on January 1, 2018.

30 SEC. 7. Section 1.5 of this bill incorporates amendments to
31 Section 4064.5 of the Business and Professions Code proposed by
32 both this bill and Senate Bill 999. It shall only become operative
33 if (1) both bills are enacted and become effective on or before
34 January 1, 2017, (2) each bill amends Section 4064.5 of the
35 Business and Professions Code, and (3) this bill is enacted after
36 Senate Bill 999, in which case Section 1 of this bill shall not
37 become operative.

38 SEC. 8. To the extent that this act has an overall effect of
39 increasing the costs already borne by a local agency for programs
40 or levels of service mandated by the 2011 Realignment Legislation

1 *within the meaning of Section 36 of Article XIII of the California*
2 *Constitution, it shall apply to local agencies only to the extent that*
3 *the state provides annual funding for the cost increase. Any new*
4 *program or higher level of service provided by a local agency*
5 *pursuant to this act above the level for which funding has been*
6 *provided shall not require a subvention of funds by the state or*
7 *otherwise be subject to Section 6 of Article XIII B of the California*
8 *Constitution.*

O